

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Council Chambers**  
**April 24, 2023**  
**6:00 p.m.**

**Planning Commissioners Present:** Bill Branigan, Bob Berman, Braulio Escobar, Jim Hanselman, Gary East, Marjorie Blom, and John Updike.

**PC Citizens Advisory Committee Members Present:** Dustin Capri.

**PC Citizens Advisory Committee Members Absent:** Greg Sutton.

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.

2. **Unfinished Business.**

A. **Update on FEMA Response to Endangered ESA Litigation.** Tokos reviewed the staff memorandum regarding the update on the FEMA response to endangered ESA litigation. This was in response to a 2016 lawsuit brought against the Federal Emergency Management Agency (FEMA) by the Audubon Society, FEMA initiated consultation with the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act. NMFS required FEMA to make several changes to how the National Flood Insurance Program (NFIP) was implemented in Oregon to avoid continued jeopardy for the threatened and endangered species (e.g. salmonids) and habitat described in the Biological Opinion.

On March 6, 2023, FEMA published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS). FEMA was soliciting public comments on potential issues, concerns, and reasonable alternatives that FEMA should consider in an EIS for the National Flood Insurance Program – Endangered Species Act Integration in Oregon Plan. The deadline for public comments was May 5, 2023.

Tokos covered the slide show for the Oregon Implementation Plan for NFIP-ESA Integration. He reported that Newport had a number of properties that were within the 100 year floodplain. If the city didn't adhere to the requirements of the National Flood Insurance Program, those individuals wouldn't be eligible for federally subsidized flood insurance and other individuals would be limited on their flood insurance options, even if their properties weren't in the 100 year floodplain. Escobar asked what neighborhoods were in the floodplain. Tokos reported a lot was in South Beach and the Big Creek area.

Tokos reviewed the program covering how long it had been in place, when and how the maps had been updated since 1968, and the fact that this applied to in water areas in addition to upland areas. He then covered the ESA consultation, the jeopardy finding that came out of 2016, efforts to work with the state on response, and the implementation in different counties.

Branigan asked if they were going to come back and redo the dams on the Klamath River. Tokos didn't know what they would do with the Klamath and noted that this litigation wouldn't impact Klamath County at all.

Tokos reviewed the four paths forward. He noted that one of the challenges Newport was going to have was that much of the area that was subject to these regulations were fully developed along the Bayfront and Port properties where there were no existing habitat. Tokos thought they would have to take a look if FEMA was going to require off site mitigation for things like redeveloping a dock, doing a restaurant expansion on a pile, where there was no habitat. The Port had concerns about in water work, such as maintenance dredging or replacing piles, where they were already subject to a US Army Corps Department's state lands joint permit application. This was another federal agency that looked to ensure that the activities weren't going to result in a take of these threatened or endangered species. Tokos explained the Port didn't want FEMA to layer onto what they were already being regulated on. If they were already subject to another federal agency's requirements, that were designed to ensure that what they were going to do was not going to result in a take, there was no reason for the further regulations. Tokos thought this was fair for the Port to say this. Newport would probably end up with a complete and implemented community compliance plan to say our area was different than a satellite city that only had one tributary. We had a Port that was subject to a battery of regulations from the Army Corps, that were designed to achieve the very thing FEMA was trying to achieve as part of addressing this litigation.

Capri noted he did a project up the bay that had an old abandoned deck that they had to show the square footage of. Tokos noted that was offsite mitigation, and this was for the in water work, not the inland work. Tokos explained that if someone was assisting a client to build on a waterfront property in a floodplain and they have to elevate, the focus would be on making sure that the lowest floor elevation was at least one foot above base flood. They wouldn't care how much earthwork was involved because it wasn't a habitat discussion, it was a flood discussion. Capri asked if they would have to do an EIS for this. Tokos didn't have an answer. He was just saying where this was going and reporting they would have to put codes in place for standards that would start to be adopted in 2025-2026. Capri asked if FEMA had to approve these. Tokos explained they had to approve whatever Newport's plan was in terms of implementation. Escobar asked if Newport had staff to put together the code for FEMA. Tokos reported on thing they could do is to reach out to similar communities who had working ports to see what they did. Capri asked if they would have to do this with and EIS. Tokos explained they would try to avoid doing case by case evaluations of that nature. This would end up as a safe harbor which was something quantifiable that provided a path on where they were going. The in water work could be more complicated, but in water was dealt with by the US Army Corp that didn't really deal with upland habitat.

Berman asked how this interrelated to the Estuary Management Plan. Tokos reported the Estuary Management Plan would help inform this because it was going to have current information in terms of what was or wasn't in the high value habitat areas. Tokos didn't know if it would render anything inoperable in the management plan because the management plan wasn't that specific. Newport would have to reconcile some things as they moved through to actual adoption. Capri asked if everything under our rules would stay in place until adoption. Tokos said that was correct and explained that he had confirmed with their staff that there was no interim things coming in that Newport would have to deal with between now and 2025-2026.

Hanselman asked who would define habitat. Tokos reported it was largely defined in the Biological Opinion, that was done by National Marine Fisheries, and would come from their model code. Berman

asked if they were only discussing water that fell in South Beach and the City of Newport, and asked how far up stream this pertained to. Tokos reported it was just for the areas that fell in Newport's jurisdiction. Capri asked if they would have a viewer like what DOGAMI had. Tokos explained there would be information like that. They would be doing some mapping to define where those areas were.

Branigan asked if this would be restricted to salmon and steelhead. Tokos thought there might be other species included in the bill, such as salamanders, that he hadn't ferreted out. Hanselman noted they didn't get any endangered species identification for any of the salmon that went into the Yaquina River. Unless they identified these endangered species there wouldn't be protection for them. Hanselman also thought one of the big problems in taking dams off rivers was that those dam removals would leave huge amounts of sediment. Those sediments went right into the water column and there were very few times of the year where there weren't salmon present. If you were to tear out any dam it would wipe out salmon on any age group. Hanselman felt that until the salmon and steelhead got an endangered species coverage, they wouldn't have any protection whatsoever.

Tokos reviewed the timeline on how the implementation will evolve, and what comments FEMA was currently looking for. The City Council would be meeting at the beginning of May to discuss a recommendation that any action being taken relative to the National Flood Insurance Program and its impact on threatened and endangered species needs to be viewed in the context of the existing regulatory structure with the Army Corps and Department of State Lands.

Tokos reviewed FEMA's current schedule. Hanselman asked if the city would be given a copy of the model ordinance. Tokos reported they would eventually. It just wasn't ready yet.

## **2. New Business.**

- A. Update on Implementation of Bayfront Parking Management Solution.** Tokos reviewed the Bayfront Parking Meter Permit Plan map. A vendor was about to go under contract to provide pay stations and some of the signage. The Parking Advisory Committee had been meeting once a month to get to this point on implementation. Tokos reported there were businesses who supported this and some were opposition to the metering program. They were getting things together to implement which included getting a vendor under contract, getting the components ordered, and getting everything scheduled in terms of improvements. The improvements included such things as some resurfacing of all of the lots, restriping the parking lots, swapping out around 150 signs, and fully replacing the poles. Berman reported that two boxes on the chart had typos.

Tokos reviewed the permit parking zones and their tiers. There would be further details coming together and outreach would be done. The committee felt given the pace at which things were moving forward, they were realistically looking at implementing at the end of the summer, not at the beginning of the summer. Tokos thought in many respects this was a good thing because during the offseason there would only be metering on the weekends and it would give people time to get used to the program. They would be putting together a more detailed plan as they sorted through some of the final implementation details. The purpose of the outreach was to inform people of what the changes were, and give them the opportunity to provide feedback if we missed something. They wanted to make sure that as many of the details were sorted out as possible before they did engagement.

Berman asked what the average distance was from the parking spaces to pay stations. Tokos reported they would be around every 10 to 12 spaces. There would also be 45 signs scattered around to inform people that they could pay on the phone instead of walking to a pay station. Berman asked if there was any sense that the commercial operations would get permits or if they would make other arrangements

such as having a shuttle bus for staff. Tokos reported this would be a discussion for the outreach. He noted that he had heard interest during the committee meetings for this and they would be looking at doing monthly permits. Berman asked if the permit would be tied to a car or person. Tokos reported they would structure it such that multiple vehicles could be associated with a single permit. If someone had several cars they could associate more than one vehicles on one permit. Tokos noted there might be any convenience fee to add multiple cars on a permit. They also discussed having this routed through the Port who would provide a list of folks that would be eligible. Commercial fleets could buy passes for their crew that were called in to work at the last minute. Hanselman asked if they talked to companies that ran pay stations. Tokos reported they had a chance to talk to the T2 Systems directly about what some of their different options were. Hanselman thought that voluntary compliance with parking tickets wasn't very successful in Newport. He wondered if the parking attendant who found a car that was in violation of parking could have the cost of their ticket directly charged to their credit card on the kiosk. Then the city would get paid from the credit card company instead of having it go through the city. Tokos reported they talked about tickets for rentals cars being added to the tab with the rental companies. Berman thought that anyone who had an outstanding ticket tried to park they should be charged for the ticket or they go away. Tokos noted the process was continuing to go forward and people in the Bayfront will be well informed.

Berman noted the typo he referenced before should be to change it to 7 days a week from May to October instead of October to May.

Tokos reviewed the regulatory signage and noted that Public Works was working through what they would handle. They would farm out the initial batch of signs and the installation would be done by Public Works crews. The concrete foundation for pay stations would be farmed out. Tokos noted that Public Works recognized it was an opportunity for them to dress up the parking areas and get all the poles swapped out that were leaning. Capri asked if the engineering estimates were funded. Tokos reported they were funded. The total cost would be somewhere between \$160-\$200,000. Tokos reviewed all the costs. Berman asked if there was any projection on the payback period. Tokos noted they would have that available for this budget cycle. Capri asked who set the pricing for the permits. Tokos reported it was the Parking Advisory Committee. Escobar asked if there had been a similar discussion for Nye Beach. Tokos said there was a modest amount for this and it would be more of a paid permit program, not a metered permit program, because there was more residences in Nye Beach. Branigan added that the permits wouldn't be guaranteed parking spots.

- B. Planning Commission Work Program Update.** Tokos noted there would be a conditional use permit and final development plan coming up for the Samaritan drug and alcohol rehab facility that would have a June 12th hearing date. They were holding neighborhood meetings and Tokos would attend one on the 1st. He would share when the meetings were if the Commission wanted to attend. OSU was working on their housing project in Wilder and would come on the heels of Samaritan. Tokos reported there would be a housing strategy open house on April 25th.

- 3. Adjourn.** The meeting adjourned at 7:00 p.m.

Respectfully submitted,



Sherri Marineau,  
Executive Assistant